

Remarks

This application has been carefully reviewed in light of the Office Action of April 11, 2006. By way of this amendment, claims 15-17 have been canceled, and claims 1-3, 9, 10, and 12 have been amended. Further review and reconsideration is requested in light of the following remarks.

1. Claim Objections

Claim 9 has been objected to as depending upon itself. Claim 9 has been rewritten to depend from claim 8. It is requested that the objection be withdrawn.

2. Anticipation Rejections

Claims 1, 4, 6, and 8-10 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,185,339 (Fleming).

Fleming is directed to a garbage bag holder and discloses a hollow container open at the top and bottom ends, and a bottom member which is placed inside the hollow container and secured with a rod to close off the bottom end of the holder. This is used to support small garbage bags and allow their easy removal when full. It is important for this type of application that the hollow container be easily removable from the bottom member so that a full garbage bag can be changed (see Column 3, lines 60-74).

In contrast, the present invention is directed to an insert bin used to reduce the useable interior volume for a rollout-style waste container. This type of insert is intended to be permanently installed in the waste container. The connection to the waste container must prevent separation of the insert bin during rough handling and high externally applied loads, as described in paragraphs [0005] through [0007] of the specification. In order to accomplish this function, the insert bin of the present invention provides means for engaging portions of a lock bar which is already present in prior art

waste containers, thus achieving a secure connection without additional weight, cost, or materials.

Independent claim 1 has been amended to more particularly point out this distinction. In particular, it recites (among other elements) that the insert bin is for use with a waste container of the type including a lock bar of a preselected length having an exterior portion disposed outside the waste container and exposed so as to be engaged by a lifting mechanism, and at least one interior portion disposed inside the waste container; that the insert bin is sized to fit inside the waste container, and further that the insert bin includes support means for receiving the recited interior portion of the lock bar so as to retain the insert bin in the waste container. Such means are not remotely shown in Fleming. Accordingly, it is submitted that Fleming fails to disclose every element of amended claim 1 and the rejection should be withdrawn.

Claims 4, 6, and 8-10 depend from claim 1 and are thus believed to be allowable as well.

Claims 15-17 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,538,158 (Prout et al.). By way of this amendment, claims 15-17 have been canceled and the rejection thereof is moot.

4. Obviousness Rejections

Claims 5, 7, and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming.

The rejection states that it would have been obvious to modify Fleming to include various structural elements recited in claims 5, 7, and 11. However, even if modified as suggested, Fleming still fails to teach an insert bin including means for receiving a lock bar recited in claim 1, from which claims 5, 7, and 11 depend, for the reasons discussed above with respect to the section 102 rejection over Fleming. Accordingly, it is submitted that Fleming fails to teach every element of claims 5, 7, or 11 and the rejection should be withdrawn.

5. Allowable Subject Matter

Applicant notes with appreciation the indication that claims 2, 3, and 12-14 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in light of the above arguments that amended claim 1 is allowable, the rewriting of these claims is not believed to be necessary.

Applicant further notes with appreciation that claims 18-21 are allowed.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the objections and rejections is requested. Allowance of claims 1-14 and 18-21 at an early date is solicited.

If any fees are due in connection with this paper, the Director is authorized to charge them to Deposit Account No. 01-0265.

Respectfully Submitted,
/Jonathan Hines/
Jonathan M. Hines
Registration No. 44,764

ADAMS EVANS P.A.
2180 Two Wachovia Center
Charlotte, North Carolina 28282
Tel. 704-375-9249
Fax: 704-375-0729
e-mail: jmh@adamspat.com
file: 2733/5